

REMARKS

This responds to the Office Action mailed on January 8, 2007. No claims are amended or cancelled. Claims 1-30 remain pending in this application.

Affirmation of Election

Restriction to one of the following claims was required:

- Ia. Claims 8-10, 20-21, 30 drawn to the membrane
- Ib. Claims 6-7, 12-13, and 29 drawn to the valve
- Ic. Claim 5 drawn to the heat source
- Id. Claims 4, 16, 19, and 28 drawn to the film
- Ie. Claims 3, 15, 18, and 24 drawn to the gas
- If. Claims 2, 14, 26 drawn to the solder
- Ig. Claim 23 drawn to the stage
- Ih. Claim 25 drawn to the restricting device

As provisionally elected by Applicant's representative, David Peterson, on January 3, 2007, Applicant elects without traverse to prosecute species Ia, and claims 1, 8-11, 17, 20-22, 27, and 30. The restriction further indicated that claims 1, 11, 17, 22, and 27 are generic. While claims 2-7, 12-16, 18, 19, 23-26, 28, and 29 remain withdrawn, Applicant anticipates the examination of species Ib. - Ih. upon the allowance of the listed generic claims.

Double Patenting Rejection

Claims 1, 8-11, 17, 20-22, 27, and 30 were rejected under the judicially created doctrine of double patenting over claims 18-36 of U.S. Patent No. 6,435,396. The rejection states that "although the conflicting claims are not identical, they are not patentably distinct from each other because the limitations of the instant application are encompassed by US 6,435,396."

Claims 1, 8-11, 17, 20-22, 27, and 30 were also rejected under the judicially created doctrine of double patenting over claims 16-23 of U.S. Patent No. 7,028,879. Similar to the '396

double patenting rejection, this rejection states that “although the conflicting claims are not identical, they are not patentably distinct from each other because the limitations of the instant application are encompassed by US 7,028,879.”

Applicant respectfully traverses the rejection for at least the following reasons. MPEP §804 II B. 1. provides a standard for a prima facie case of non-statutory double patenting.

Any obviousness-type double patenting rejection should make clear: (A) The differences between the inventions defined by the conflicting claims - a claim in the patent compared to a claim in the application; and (B) The reasons why a person of ordinary skill in the art would conclude that the invention defined in the claim at issue would have been an obvious variation of the invention defined in a claim in the patent.

The pending rejections do not make clear differences between the inventions defined by the conflicting claims. The rejections merely conclude that “the limitations of the instant application are encompassed” by the cited references. The rejections further do not provide any reasons why a person of ordinary skill in the art would conclude that the invention defined in the claims at issue would have been an obvious variation of the invention defined in a claim in the cited references.

Applicant is unable to find in claims 18-36 of U.S. Patent No. 6,435,396, or in claims 16-23 of U.S. Patent No. 7,028,879 any recitation of a recharging gas source coupled to a gas chamber, or a gas flow restricting device. Applicant respectfully submits that at least these limitations are not found in the cited claims, and that at least these limitations are not obvious variations of the cited claims.

Because all limitations of claims 1, 8-11, 17, 20-22, 27, and 30 are not found in the ‘396 and ‘879 claims, and no additional suggestion, motivation, or teaching is provided, the differences between claims 1, 8-11, 17, 20-22, 27, and 30 and the claims of the ‘396 patent and ‘879 patent are not obvious. Therefore a double patenting rejection is not supported. Reconsideration and withdrawal of the rejection are respectfully requested with respect to claims 1, 8-11, 17, 20-22, 27, and 30.

CONCLUSION

Applicant respectfully submits that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney at (612) 373-6944 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Reservation of Rights

In the interest of clarity and brevity, Applicant may not have addressed every assertion made in the Office Action. Applicant's silence regarding any such assertion does not constitute any admission or acquiescence. Applicant reserves all rights not exercised in connection with this response, such as the right to challenge or rebut any tacit or explicit characterization of any reference or of any of the present claims, the right to challenge or rebut any asserted factual or legal basis of any of the rejections, the right to swear behind any cited reference such as provided under 37 C.F.R. § 1.131 or otherwise, or the right to assert co-ownership of any cited reference. Applicant does not admit that any of the cited references or any other references of record are relevant to the present claims, or that they constitute prior art. To the extent that any rejection or assertion is based upon the Examiner's personal knowledge, rather than any objective evidence of record as manifested by a cited prior art reference, Applicant timely objects to such reliance on Official Notice, and reserves all rights to request that the Examiner provide a reference or affidavit in support of such assertion, as required by MPEP § 2144.03.

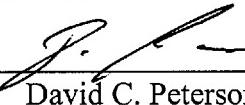
Respectfully submitted,

PAUL A. FARRAR ET AL.

By their Representatives,

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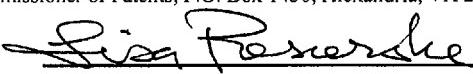
By 

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CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being filed using the USPTO's electronic filing system EFS-Web, and is addressed to: Mail Stop Amendment, Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 9 day of April 2007.

LISA ROSSORE

Name



Signature